

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE NEW ENGLAND COMPOUNDING
PHARMACY, INC. PRODUCTS
LIABILITY LITIGATION

MDL No. 2419
Dkt. No. 1:13-md-2419 (RWZ)

THIS DOCUMENT RELATES TO:

All Actions

**[PROPOSED] ORDER REGARDING THE PROCEDURE FOR
ENTRY OF FINAL JUDGMENTS DISMISSING CLAIMS AGAINST SETTLING
DEFENDANTS IN INDIVIDUAL CASES IN THIS MDL PROCEEDING**

WHEREAS, the Chapter 11 Plan for the New England Compounding Pharmacy, Inc. d/b/a New England Compounding Center was confirmed by the Honorable Henry J. Boroff of the United States Bankruptcy Court for the District of Massachusetts on May 20, 2015 and became effective on June 4, 2015.¹

WHEREAS, on August 26, 2015, this Court entered an Order dismissing claims against entities released as part of that Chapter 11 Plan.²

WHEREAS, it is necessary to establish an efficient process for the clerk of this Court to notice and effectuate the entry of final judgments dismissing those released claims and otherwise update the affected civil action dockets.

IT IS HEREBY ORDERED THAT:

This procedural order addresses two categories of cases in the MDL that have been affected by the Court's previous Order dismissing claims against the settling defendants.

Category 1 covers cases that named only settling defendants and will be dismissed in their

¹ Findings of Fact, Conclusions of Law and Order Confirming the Third Amended Joint Chapter 11 Plan of New England Compounding Pharmacy, Inc., *In Re New England Compounding Pharmacy, Inc. (Debtor)*, 12-BR-19882 (HJB), Dkt. No. 1355.

² Order Dismissing Claims Against Settling Defendants, MDL Dkt. No. 2193.

entirety as a result of the Order. Category 2 covers cases in which some, but not all, defendants were dismissed by the Order.

1. Category 1: Plaintiffs' counsel shall identify, by November 4, 2015 [10 days], the civil actions in this MDL proceeding where claims against every defendant have been dismissed as a result of the Court's Order. Counsel for each plaintiff(s) shall send a list of such actions, identified by caption and civil action number, to PSC member Patrick Fennell by email: pfennell@crandalllaw.com. The PSC shall file that list of cases by ECF on or before November 13, 2015 [9 days]. The Court finds that there is no just reason for delay in entry of judgement and directs the clerk to enter a final judgement of dismissal for all cases on the list provided by the PSC. The clerk shall then enter a judgment of dismissal in the individual civil action docket.

2. Category 2: For all cases where some, but not all, defendants were dismissed by the Court's previous Order, plaintiffs' counsel in each individual civil action (not the PSC) shall file a "Notice of Judgment Dismissing Claims Against Certain Defendants Pursuant to Fed. R. Civ. P 54(b)" in a form substantially similar to the attached example Notice of Judgment by November 7, 2015. The PSC shall make available a Word version of the sample "Proposed Judgment" to plaintiffs' counsel by email. The Notice of Judgment shall identify the settling defendants as named in the operative complaint, note that claims against those defendants have been dismissed, and reference the Court's previous Order. The Court finds that there is no just reason for delay in entry of judgement and directs the clerk to enter a final judgement of dismissal as to these dismissed defendants identified in each Notice of Judgment.

BY THE COURT:

Dated:

Hon. Rya W. Zobel
United States District Judge

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THIS DOCUMENT RELATES TO:

[INDIVIDUAL CASE CAPTION AND
CIVIL ACTION NUMBER]

**[SAMPLE] NOTICE OF JUDGMENT DISMISSING CLAIMS
AGAINST SETTLING DEFENDANTS PURSUANT TO FED. R. CIV. P. 54(b)**

On August 26, 2015, this Court entered an Order¹ dismissing all claims against all parties released under the Chapter 11 Plan² confirmed by the Honorable Henry J. Boroff of the United States Bankruptcy Court for the District of Massachusetts. The MDL Order states: “All claims of any type against the following settling defendants in all cases currently pending in this MDL are hereby dismissed with prejudice. Each party will bear its own costs.”³ The Order lists the following settling defendants:

- New England Compounding Pharmacy, Inc. d/b/a New England Compounding Center;
- Alaunus Pharmaceutical, LLC
- Ameridose, LLC
- ARL BioPharma Inc. d/b/a Analytical Research Laboratories;
- GDC Properties Management, LLC;
- High Point Surgery Center;
- Surgery Center Associates of High Point, LLC;

¹ Order Dismissing Claims Against Settling Defendants, MDL Dkt. No. 2193.

² Findings of Fact, Conclusions of Law and Order Confirming the Third Amended Joint Chapter 11 Plan of New England Compounding Pharmacy, Inc., *In Re New England Compounding Pharmacy, Inc. (Debtor)*, 12-BR-19882 (HJB), Dkt. No. 1355.

³ MDL Dkt. No. 2193.

- High Point Regional Health f/k/a High Point Regional Health System, d/b/a High Point Regional Hospital;
- Inspira Health Network, Inc. f/k/a South Jersey Health System, Inc.;
- Inspira Medical Centers, Inc. f/k/a South Jersey Hospital, Inc.;
- Liberty Industries, Inc.;
- Medical Sales Management, Inc.;
- Medical Sales Management, SW, Inc.;
- UniFirst Corporation a/d/b/a UniClean Cleanroom Services;
- Paul Abrams;
- Joseph Alessandrini;
- Barry J. Cadden;
- Lisa M. Conigliaro Cadden;
- Glenn Chin;
- Carla Conigliaro;
- Douglas Conigliaro; and
- Gregory Conigliaro.

Plaintiff(s) complaint asserted claims against the following settling defendants:

[INSERT THOSE SETTLING DEFENDANTS NAMED IN THE COMPLAINT
AND DISMISSED BY THE COURT’S ORDER]

Plaintiff understands that pursuant to the Court’s Order, the clerk will enter final judgment of dismissal of the defendants listed immediately above.

[INSERT SIGNATURE BLOCK]